

**MINUTES OF THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**May 19, 1999**

DIVISION ONE

Court convened at 9:00 A.M.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., Masterson, J., and C. Hon, Deputy Clerk.

Each of the following:

B100345 Derry v. Countrywide Funding Corp.  
B117612 People v. Lopez  
B119853 People v. Thompson  
B121297 People v. Medina  
B122811 People v. Journigan  
B125850 In re Kevin G. (DCFS v. Lesly/Mario A.)  
B127399 In re George M. (DCFS v. Rachel A.)

Argument waived, cause submitted.

B114451 Estate of Manuel A. Chavez, Deceased.  
Romero  
v.  
Manriquez

Merits:

Argued by Robert Burch for respondent and Mario Manriquez, Jr. for appellant waived argument. Cause submitted.

B124932 The People  
v.  
Peoples

Merits:

Argued by David Wildman, deputy attorney general, for respondent and by Richard L. Schwartzberg for appellant. Cause submitted.

DIVISION ONE (Continued)

B119498      Associated Aviation Underwriters, Inc.  
                 v.  
                 Wolfe Air Aviation, Ltd., et al.

Merits:

Argued by Gwen Freeman for appellant-respondent and by Douglas M. Carasso for respondent-appellant. Cause submitted.

B120752      The People  
                 v.  
                 Mathews

Merits:

Argued by Martin Kassman for appellant and by Jim Hart, deputy attorney general, for respondent. Cause submitted.

B117004      Barkowski  
                 v.  
                 City of Los Angeles et al.

Merits:

Argued by Larry J. Roberts for respondent and by Patricia A. Kinaga for appellants. Cause submitted.

B114164      Valley Investment Associates  
                 v.  
                 Calfarm Insurance Company

Merits:

Argued by Mark E. Baker for appellant and by Lillie Hsu for respondent. Cause submitted.

B115725      Kay, Jr.  
                 v.  
                 Pick et al.

Merits:

Argued by Robert A. Budd for respondent and by Steven Rein for appellants. Cause submitted.

## DIVISION ONE (Continued)

B118699      Naftzger, Jr.  
v.  
The American Numismatic Society

Merits:

Argued by Gregory A. Long for appellant-respondent and by Oleg Rivkin for respondent appellant. Cause submitted.

Justice Ortega leaves the bench.

Court recessed.

Court reconvened.

B109717 Hi Chin Y. et al.  
B111664 v.  
Beverly Enterprises California, Inc., et al.

Merits:

Argued by Wendy Lascher for appellants-respondents and by David T. Harney for respondents-appellants. Cause submitted.

Court adjourned.

B119853      People                                  (Not for Publication)  
v.  
John Allen Thompson

The judgment is affirmed.

Masterson, J.

We concur: Ortega, Acting P.J.  
Vogel (Miriam A.), J.

## DIVISION ONE (Continued)

B116669      People                                  (Not for Publication)  
v.  
Jesus Solis Padilla

The judgment is affirmed.

Masterson, J.

We concur: Ortega, Acting P.J.  
Vogel (Miriam A.), J.

B129677      Danielle O.      (Not for Publication)  
v.  
Superior Court, Los Angeles County  
(D.C.F.S., r.p.i.)

The petition is denied.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Masterson, J.

B124504      Los Angeles County, D.C.F.S.      (Not for Publication)  
v.  
Virginia O.

The order is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Ortega, J.

## DIVISION ONE (Continued)

B121198 People (Not for Publication)  
v.  
Roberto Saucedo

The judgment is affirmed, and the cause is remanded to the trial court with directions to issue an abstract of judgment reflecting all fines and fees that were pronounced at the time of sentencing.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.  
Masterson, J.

B123547 People (Not for Publication)  
v.  
Deante Reginald Smith

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Masterson, J.

[illegible]

Bass's sentence is modified by striking two of the six enhancements imposed pursuant to subdivision (b) of section 667.5 and, as modified, is affirmed; the cause is remanded to the trial court with directions to issue a corrected abstract of judgment reflecting Bass's aggregate sentence of 29 years to life (comprised of 25 years to life on the current conviction plus four one-year enhancements pursuant to section 667.5, subdivision (b)), and to reflect the restitution fine (\$200) and laboratory fee (\$50) imposed at the time of sentencing.

Vogel (Miriam A.), J.

I concur: Spencer, P.J.  
I concur: Ortega, J. (Opinion)

May 19, 1999-Continued

## DIVISION ONE (Continued)

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The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.  
Ortega, J.

B124835      People                                  (Not for Publication)  
v.  
Askari Powers

The judgment is affirmed.

Masterson, J.

We concur: Spencer, P.J.  
Ortega, J.

DIVISION TWO

B119522 People (Not for Publication)  
v.  
Nolan

The superior court is directed to prepare and forward to the Department of Corrections an amended abstract of judgment which reflects a total of 394 days of presentence custody credit. In all other respects, the judgment is affirmed.

Boren, P.J.

We concur: Nott, J.  
Mallano, J. (Assigned)

## DIVISION FOUR

B119427 Paykar Construction  
v.  
Bedrosian

Filed order denying petition for rehearing.

B129682 Cristina N. (Not for Publication)  
v.  
Superior Court, Los Angeles County  
(Los Angeles County Department of Children and Family  
Services, r.p.i.)

The motion to dismiss is denied. Let a peremptory writ of mandate issue directing respondent, the Superior Court of Los Angeles County, to vacate its order of February 18, 1999, and to schedule a contested hearing under section 366.22 forthwith.

Curry, J.

We concur: Vogel (C.S.), P.J.  
Hastings, J.

B130099 Elizabeth M. (Not for Publication)  
v.  
Superior Court, Los Angeles County  
(Los Angeles County Department of Children and Family  
Services, r.p.i.)

The petition is denied.

Hastings, J.

We concur: Vogel (C.S.), P.J.  
Epstein, J.

## DIVISION FOUR (Continued)

B120627      People                        (Not for Publication)  
v.  
Alfaro

The judgment is modified to include an additional restitution fine of \$200 which shall remain suspended unless and until defendant violates parole, pursuant to Penal Code section 1202.45. As so modified, the judgment is affirmed. The clerk of the superior court is directed to prepare and send to the Department of Corrections a corrected abstract of judgment reflecting the imposition of a \$200 restitution fine pursuant to Penal Code section 1202.4, and an additional suspended \$200 restitution fine pursuant to Penal Code section 1202.45.

Vogel (C.S.), P.J.

We concur: Epstein, J.  
Curry, J.

B121499 People (Not for Publication)  
v.  
Brown

The judgment is modified to include an additional \$200 restitution fine under Penal Code section 1202.45. As so modified, the judgment is affirmed. The clerk of the superior court is directed to prepare and send to the Department of Corrections a corrected abstract of judgment reflecting the imposition of a \$200 restitution fine pursuant to Penal Code section 1202.4, and an additional suspended \$200 restitution fine pursuant to Penal Code section 1202.45.

Vogel (C.S.), P.J.

We concur: Epstein, J.  
Curry, J.



DIVISION FOUR (Continued)

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The October 6, 1997 order is reversed and the matter is remanded with directions for the trial court to consider whether Wife acted diligently in applying for an order establishing child support arrears. Costs on appeal are awarded to Husband.

Hastings, J.

We concur: Vogel (C.S.), P.J.  
Curry, J.

B122336      Callahan      (Not for Publication)  
v.  
Los Angeles Unified School District

The October 6, 1997 order is reversed and the matter is remanded with directions for the trial court to consider whether Wife acted diligently in applying for an order establishing child support arrears. Costs on appeal are awarded to Husband.

Vogel (C.S.), P.J.

We concur: Hastings, J.  
Curry, J.

## DIVISION FIVE

B121393      Gary Ruster      (Not for Publication)  
v.  
County of Los Angeles et al.

The judgment is reversed. Appellant Gary Ruster is awarded his costs on appeal.

Grignon, Acting P.J.

We concur:    Armstrong, J.  
                         Godoy Perez, J.

DIVISION FIVE (Continued)

B123621      Earle Lambert                      (Not for Publication)  
                 v.  
                 Workers Compensation Appeals Board

The decision of the Board after reconsideration regarding the attorney's fees award to petitioner is annulled and the matter is remanded for further proceedings consistent with the views expressed herein.

Armstrong, J.

We concur:    Turner, P.J.  
                         Godoy Perez, J.

DIVISION SIX

Court convened at 9:00 A.M.

Present: Gilbert, Acting P.J., Yegan, J., Coffee, J., Matz, J. (Assigned), and G. Bents, Deputy Clerk.

B118704      Gove  
                 v.  
                 Modern Service Insurance Co.

Merits:  
Argued by J. Edmund Smith for appellant and by Richard B. Melbye for respondent. Cause submitted.

B119843      Romero  
                 v.  
                 Santa Maria Berry Farms, Inc.

Merits:  
Argued by Robert P. Roy for appellants and by Richard Pearl for respondent. Cause submitted.

Gilbert, Acting P.J., left the bench.

DIVISION SIX (Continued)

B121731     Pappas  
              v.  
              Shadrawy

Merits:  
Argued by David C. Turpin for appellants and by William Paterson for  
respondent. Cause submitted.

Court recessed at 9:55 A.M.

Court reconvened at 1:30 P.M.

Present: Gilbert, Acting P.J., Yegan, J., Matz, J. (Assigned), and G. Bents, Deputy Clerk.

B126010     Schulner  
              v.  
              Bayer et al.

Merits:  
Argued by Lawrence M. Schulner appellant and by Robert J. Bayer for  
respondents. Cause submitted.

B125624     Malibu Bay Club  
              v.  
              Hawks & Associates

Merits:  
Argued by Jeffrey D. Johnsen for appellant and by Glen L. Kulik for  
respondent. Cause submitted.

Court adjourned at 2:30 P.M.

## DIVISION SEVEN

B112400      Howard                                  (Not for Publication)  
v.  
City of Los Angeles, et al.

The judgment is affirmed. Respondents shall recover their costs on appeal.

Neal, J.

We concur: Lillie, P.J.  
Woods, J.

B116864      Thriller, et al.      (Not for Publication)  
v.  
Volkswagen De Mexico, S.A. De C.V.

The judgment is affirmed. Respondents shall recover their costs on appeal.

Neal, J.

I concur: Woods, J.  
I concur in judgment only: Lillie, P.J.

B114157 Powers (Not for Publication)  
B119123 v.  
Absey

The judgment is affirmed. Each side shall bear its own costs on appeal.

Neal, J.

We concur: Lillie, P.J.  
Woods, J.

DIVISION SEVEN (Continued)

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The judgment is affirmed.

Neal, J.

We concur:   Johnson, Acting P.J.  
                      Woods, J.

B123717 People (Not for Publication)  
v.  
Newson

The judgment is affirmed. The trial court shall review the abstract of judgment to determine if it accurately reflects its restitution order and shall correct the abstract as necessary.

Woods, J.

We concur: Lillie, P.J.  
Johnson, J.

B117585 People (Not for Publication)  
v.  
Coria-Silva

The judgment is affirmed.

Neal, J.

We concur: Johnson, Acting P.J.  
Woods, J.

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## DIVISION SEVEN (Continued)

B121918      People                          (Not for Publication)  
v.  
Robb

The judgment is affirmed.

Neal, J.

We concur: Lillie, P.J.  
Woods, J.

B123946 Sanchez (Certified for Publication)  
v.  
Lindsey Morden Claims Services, Inc.

The judgment of the trial court is affirmed. Respondent shall recover its costs on appeal.

Neal, J.

We concur: Lillie, P.J.  
Woods, J.

B120872      Saenz      (Not for Publication)  
v.  
City of Los Angeles, et al.

The judgment is reversed. Appellant shall recover its costs on appeal.

Neal, J.

We concur: Johnson, Acting P.J.  
Woods, J.

DIVISION SEVEN (Continued)

B114678      American City Fund, Inc.    (Not for Publication)  
                 v.  
                 County of Los Angeles, et al.

The judgment is affirmed. Respondents are awarded costs of appeal. Respondents Mendozas' are to recover sanctions on appeal per *In re Flaherty* in the amount of \$4,387.12 against appellant and its counsel jointly and severally.

Woods, J.

We concur:   Lillie, P.J.  
                 Johnson, J.